

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Letters Patent of:  
John C. Harvey *et al.*

Patent No.: 7,769,170

Issued: August 03, 2010

For: SIGNAL PROCESSING APPARATUS AND  
METHODS

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Commissioner for Patents  
Office of Patent Publication  
Attention: Certificate of Correction Branch  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.322**

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted an typographical error which should be corrected. The claims of the issued patent do not reflect the Examiner's Amendments contained in the Office Action mailed on October 1, 2009. A copy of this mailing is attached as Exhibit A.

At claim 11, column 288, line 10, delete "onc of said"

Applicants did not make the error. Claim 11 was originally claim 27 and was last amended via an Examiner's Amendment contained in the Ex Parte Quayle Action mailed October 1, 2009. No further amendments were submitted by Patentee or issued by the Examiner.

Patent 7,769,170 issued August 3, 2010, failed to reflect the claims as amended by the Examiner and approved by the applicants in the October 1, 2009 Examiner's Amendment.

On page 5 of the October 1, 2009 Ex Parte Quayle Action, the Examiner amended claim 27 via the Examiner's Amendment authorized by Applicants on September 23, 2009. Among other changes, the amendment correctly deleted "one of said" after "transferring said at least one control signal from said". This deletion was not reflected in the issued claim.

Accordingly, Applicants believe that the aforementioned error was caused by the Office and that no fee is due for the Certificate of Correction. However, if any fees are required, the Director is hereby authorized to charge any fees to our Deposit Account No. 50-4494.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Dated: December 9, 2010

Respectfully submitted,

By /Thomas J. Scott, Jr./  
Thomas J. Scott, Jr.

Registration No.: 27,836  
GOODWIN PROCTER LLP  
901 New York Avenue, NW  
Washington, DC 20001  
(202) 346-4000  
Attorney for Patentee

**EXHIBIT A**



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/446,431	05/22/1995	JOHN C. HARVEY	5634.150	7460
70813 7590 10/01/2009 GOODWIN PROCTER LLP 901 NEW YORK AVENUE, N.W. WASHINGTON, DC 20001				
EXAMINER NGUYEN, MINH DIEU T				
ART UNIT 2438		PAPER NUMBER		
NOTIFICATION DATE 10/01/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

AAAlpha-Kpetewama@goodwinprocter.com  
patentdc@goodwinprocter.com

### Office Action Summary

**Application No.**

08/446,431

**Applicant(s)**

HARVEY ET AL.

**Examiner**

MINH DIEU NGUYEN

**Art Unit**

2438

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-12, 27-34 and 47-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-12, 27-34 and 47-50 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-854/CC)
- 4) ☒ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Page No(s)/Mail Date See Continuation Sheet

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :4/7/97; 8/11/00; 5/11/01; 3/19/02; 6/18/02; 3/14/03; 5/5/03.

### Interview Summary

Application No.

08/446,431

Applicant(s)

HARVEY ET AL.

Examiner

MINH DIEU NGUYEN

Art Unit

2438

All participants (applicant, applicant's representative, PTO personnel):

(1) MINH DIEU NGUYEN.

(3) \_\_\_\_\_.

(2) Thomas J. Scott Jr.

(4) \_\_\_\_\_.

Date of Interview: 23 September 2009.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: \_\_\_\_\_.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The Applicant agreed to further amend claims 3, 27 and 47 to clearly recite claimed limitations. The claims amendments will be incorporated in the Examiner's amendment section of the attached office action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Minh Dieu Nguyen/  
Primary Examiner, Art Unit 2438

### DETAILED ACTION

1. This application is in condition for allowance except for the following formal matters: Administrative Requirement as set forth below.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

2. As the application has closed on the merits, applicant is now required to make the submission to comply with the Administrative Requirement as followed: Applicants' compliance will take the form of one of the following actions:

(1) filing terminal disclaimers in each of the related co-pending applications terminally disclaiming each of the other co-pending applications;

(2) providing an affidavit attesting to the fact that all claims in the co-pending applications have been reviewed by applicant and that no conflicting claims exists between the applications; or

(3) resolving all conflicts between claims in the identified co-pending applications by identifying how all the claims in the instant application are distinct and separate inventions from all the claims in the identified co-pending applications.



3. An examiner's amendment to the record appears below. Authorization for this examiner's amendment was given in a telephone interview with Thomas J. Scott Jr. on 9/23/09.

The application has been amended as follows:

**Claim 3** (Currently Amended) A method of processing signals to select at least one datum with independent receiver specific relevance at a receiver station and deliver at said receiver station a receiver specific programming presentation, said receiver station having a computer and an output device, wherein said computer has a memory location for storing data and said output device outputs at least one of video, audio, and hardcopy, said method comprising the steps of:

receiving an information transmission from a remote station and passing at least a portion of said information transmission to said computer, said information transmission including data and at least one instruct signal;

detecting ~~an instruct to select~~ said at least one instruct signal in said information transmission;

processing said data at said computer and selecting causing said computer to select a plurality of subscriber data by processing at said receiver station said at least one instruct signal received in said information transmission from said remote station;

storing said selected plurality of subscriber data at said memory location at said receiver station;

receiving mass medium programming from a programming source ~~and outputting said mass medium programming at said output device;~~

selecting causing said computer to select subscriber information to output based ~~on as a result of processing at said receiver station said step of storing selected and stored plurality of subscriber data;~~ and

outputting at least one of a simultaneous presentation and a sequential presentation of said mass medium programming and said selected subscriber information.

**Claim 27** (Currently Amended) A method of controlling at least one of a plurality of receiver stations each of said plurality of receiver stations including one of a broadcast signal receiver and a cablecast signal receiver, at least one processor, at least one stored subscriber datum with independent receiver specific relevance, and a signal detector, wherein said signal detector is adapted to receive signals from one of a broadcast signal and a cablecast signal, and wherein said at least one processor is programmed to respond to signals from said signal detector, said method comprising the steps of:

(1) receiving at ~~one of~~ either a broadcast transmitter station ~~and~~ or a cablecast transmitter station at least one instruct signal which is effective at said at least one of said plurality of receiver stations to cause said at least one processor to select said at least one subscriber datum for, said at least one subscriber datum being processed at said at least one of said plurality of receiver stations to output at least one of simultaneous presentation and sequential presentation with mass medium programming;

(2) transferring said at least one instruct signal from said ~~one of said~~ broadcast transmitter station ~~and said~~ or cablecast transmitter station to a transmitter;

(3) receiving at least one control signal at said ~~one of said~~ broadcast transmitter station ~~and said~~ or cablecast transmitter station, wherein said at least one control signal identifies at least one specific receiver station device to which said at least one instruct signal is addressed; and

(4) transferring said at least one control signal from said ~~one of said~~ broadcast transmitter station ~~and said~~ or cablecast transmitter station to said transmitter, said ~~one of said~~ broadcast transmitter station ~~and said~~ or cablecast transmitter station ~~one of broadcasting and cablecasting~~ transmitting said at least one instruct signal and said at least one control signal to said at least one of said plurality of receiver stations.

**Claim 32** (Currently Amended) The method of claim 27, said method further comprising at least one of:

transmitting to said at least one of said plurality of receiver stations at least one of data that:

(a) designate at least one of a time of transmission and a channel of transmission of said at least one instruct signal; and

(b) specify at least one of a title of and a subject matter included in at least one of said mass medium programming and ~~said~~ data associated with said at least one instruct signal; and

transmitting to said at least one of said plurality of receiver stations a first control signal to cause said at least one of said plurality of receiver stations to tune to one of a broadcast transmission and a cablecast transmission including a specific instruct signal.

**Claim 47** (Currently Amended) A method of processing signals to deliver a receiver specific programming presentation at a receiver station, said receiver station having a computer and an output device, with said computer having a memory location for storing data and said output device outputting at least one of video, audio, and hardcopy, said method comprising the steps of:

receiving a data transmission containing at least one embedded signal from a remote data source and passing said data transmission to said computer;  
processing said data transmission at said computer; ~~and~~  
~~selecting~~ causing said computer to select at said receiver station one or more data of interest from said data transmission in response to said at least one embedded signal;

storing said selected one or more data of interest at said memory location at said receiver station;

receiving mass medium programming from a programming source ~~and outputting said mass medium programming at said output device~~;

~~selecting~~ causing said computer to select designated information to output, said designated information being the product of processing at least a portion of said selected and stored data of interest;

detecting an instruct signal; and

outputting a simultaneous or sequential presentation of said mass medium ~~program~~ programming and said designated ~~output~~ information in response to said instruct signal.

**Claim 49** (Currently Amended) The method of claim 47, ~~wherein said step of outputting a simultaneous or sequential presentation of said mass medium programming and said designated information is performed in response to a command, said method~~ further comprising one or more of the steps of:

inputting a subscriber command at said receiver station; and

detecting at said receiver station a command communicated from a remote station.

***Allowable Subject Matter***

4. Claims 3-12, 27-34 and 47-50 are allowed.
5. The following is an examiner's statement of reasons for allowance: The present invention is directed to an integrated system of methods and apparatus for communicating programming. In particular, the present invention provides a capacity to operate under the control of instructions transmitted by broadcasters (Specification: page 6, lines 13-14). Each independent claim (i.e. claims 3, 27 and 47) identifies the uniquely distinct features of causing the computer of the viewer's receiver station to select a plurality of subscriber data by processing at the receiver station the at least one instruct signal received in the information transmission from the remote station; storing the selected plurality of subscriber data at the memory location at the receiver station and causing the computer of the viewer's receiver station to select subscriber information to output as a result of processing at the receiver station the selected and stored plurality of subscriber data. The prior arts of record fail to anticipate or render the above limitations obvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Minh Dieu Nguyen/  
Primary Examiner, Art Unit 2438

<b>Index of Claims</b> 	<b>Application/Control No.</b> 08446431	<b>Applicant(s)/Patent Under Reexamination</b> HARVEY ET AL.
	<b>Examiner</b> MINH DIEU NGUYEN	<b>Art Unit</b> 2438

✓	<b>Rejected</b>	-	<b>Cancelled</b>	N	<b>Non-Elected</b>	A	<b>Appeal</b>
=	<b>Allowed</b>	÷	<b>Restricted</b>	I	<b>Interference</b>	O	<b>Objected</b>


<input type="checkbox"/> Claims renumbered in the same order as presented by applicant			<input type="checkbox"/> CPA			<input type="checkbox"/> T.D.			<input type="checkbox"/> R.1.47			
CLAIM			DATE									
Final	Original	09/23/2009										
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	30	=										
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	34	=										
	35	-										
	36	-										

<b><i>Index of Claims</i></b>  	<b>Application/Control No.</b>  08446431	<b>Applicant(s)/Patent Under Reexamination</b>  HARVEY ET AL.
	<b>Examiner</b>  MINH DIEU NGUYEN	<b>Art Unit</b>  2438

✓	<b>Rejected</b>	-	<b>Cancelled</b>	N	<b>Non-Elected</b>	A	<b>Appeal</b>
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CLAIM			DATE									
Final	Original	09/23/2009										
	37	-										
	38	-										
	39	-										
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	67	-										
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<b><i>Index of Claims</i></b>  	<b>Application/Control No.</b>  08446431	<b>Applicant(s)/Patent Under Reexamination</b>  HARVEY ET AL.
	<b>Examiner</b>  MINH DIEU NGUYEN	<b>Art Unit</b>  2438

✓	<b>Rejected</b>	-	<b>Cancelled</b>	N	<b>Non-Elected</b>	A	<b>Appeal</b>
=	<b>Allowed</b>	÷	<b>Restricted</b>	I	<b>Interference</b>	O	<b>Objected</b>

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant				<input type="checkbox"/> CPA				<input type="checkbox"/> T.D.				<input type="checkbox"/> R.1.47			
CLAIM			DATE												
Final	Original	09/23/2009													
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	76	-													
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	78	-													
	79	-													
	80	-													

## UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 7,769,170  
APPLICATION NO.: 08/446,431  
ISSUE DATE : August 3, 2010  
INVENTOR(S) : John C. Harvey et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At claim 11, column 288, line 10, delete "onc of said"

### MAILING ADDRESS OF SENDER (Please do not use customer number below):

THOMAS J. SCOTT, ESQ  
GOODWIN PROCTER LLP  
901 NEW YORK AVE. NW, WASHINGTON, DC 20001

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement authority, if the USPTO becomes aware of a violation or potential violation of law or regulation.